admits that the question is one of fact, but declares that a written protest does not override the evidence of acceptance afforded by the cashing of the draft. It seems doubtful, therefore, whether any evidence would have satisfied the court that the inference of acceptance had been rebutted. If that be so, the principal case shows a strong tendency to overthrow the rule that the question is the one of fact referred to above. For a discussion of the principles involved, see 17 HARV. L. REV. 459, 469–473.

ADMIRALTY — TORTS — DAMAGES RECOVERABLE FROM ONE OF TWO VESSELS AT FAULT. — In a collision at sea a vessel in tow was injured by the fault of the tug and a third vessel. *Held*, that the vessel in tow may recover her whole damage from the third vessel. *The Devonshire*, 27 T. L. R. 490 (P. D.).

This is clearly irreconcilable on principle with the English rule that an innocent cargo can recover only one half of its damage from one of two vessels injuring it. *The Drumlanrig*, [1910] P. 249. If the court allows contribution on the facts of the principal case, the result will be that where a vessel is injured, the English rule as to joint tortfeasors will be the same as the American. See 24 HARV. L. REV. 150. But it seems hardly likely that the English court will allow contribution in a separate suit, since it has refused to allow it where both tortfeasors are in court. *The Avon and Thomas Joliffe*, [1891] P. 7.

ADVERSE POSSESSION — SUBJECT MATTER AND EXTENT — APPLICATION OF CONSTRUCTIVE POSSESSION DOCTRINE TO LARGE TRACTS OF LAND. — The defendant having been for more than 25 years in actual possession of 15 to 20 acres of land under color of title to a 320-acre tract, the plaintiff brought an action of ejectment to recover the entire tract. *Held*, that the defendant has acquired title to the 320 acres. *Marietta Fertilizer Co.* v. *Blair*, 56 So. 131 (Ala.).

By the American doctrine, the occupation of part of a tract of land under color of title to the whole is constructive adverse possession of the entire tract. *Ellicott* v. *Pearl*, 10 Pet. (U. S.) 412. The reason for this rule is that it is impracticable for the occupant to clear and cultivate an entire farm at one time. See *Jackson d. Gilliland* v. *Woodruff*, 1 Cow. (N. Y.) 276, 287. This reasoning is obviously inapplicable to a case where actual possession of a few acres is made the basis for a claim to a vast expanse of country. *Chandler* v. *Spear*, 22 Vt. 388. Accordingly, several courts have held that the amount of land which can be thus obtained must be limited to a tract which can be used in one body according to the usual manner of business of the country. *Thompson* v. *Burhans*, 61 N. Y. 52. See *Murphy* v. *Doyle*, 37 Minn. 113, 116, 33 N. W. 220, 222. The difficulty of applying such a rule is perhaps increased, as the principal case points out, by the large-scale methods of modern business, but its necessity is clear. *Archibald* v. *New York Central, etc. R. Co.*, 1 N. Y. App. Div. 251, 37 N. Y. Supp. 336. The weight of authority, however, is perhaps in accord with the principal case. *Doe d. Lenoir* v. *South*, 10 Ired. (N. C.) 237; *Hicks* v. *Coleman*, 25 Cal. 122. The question is regulated by statute in several states. N. Y. CODE CIV. PROC., § 370; CAL. CODE CIV. PROC., 1906, § 323.

AGENCY — AGENT'S LIABILITY TO THIRD PARTIES — THEORY OF UNDISCLOSED PRINCIPAL APPLIED TO TORTS. — The defendant, concealing the fact that he was merely an agent, employed the plaintiff to work on a building. The plaintiff did not know till after the injury complained of that the defendant was an agent. There was no evidence that the defendant was personally negligent. *Held*, that the defendant is liable as if he were the principal. *Yarslowitz* v. *Bienenstock*, 130 N. Y. Supp. 931 (Sup. Ct.).

The agent of a disclosed principal is not liable for injuries to subagents unless he himself has been negligent. *Stone* v. *Cartwright*, 6 T. R. 411; *Brown*

v. *Lent*, 20 Vt. 529. But when the employing agent conceals his agency, he is liable as if he were principal. *Malone* v. *Morton*, 84 Mo. 436; *Morris & Co.* v. *Malone*, 200 Ill. 132, 65 N. E. 704. The principal case apparently suggests that this distinction is explained by the doctrine of undisclosed principal, that an agent who contracts as principal is liable on the contract. *Simon* v. *Motivos*, 3 Burr. 1921; *Pierce* v. *Johnson*, 34 Conn. 274. The same rule holds where one contracts as agent but fails to name his principal. *Cobb* v. *Knapp*, 71 N. Y. 348; *Ye Seng Co.* v. *Corbitt*, 9 Fed. 423. The reason usually given is that the agent is a party to the contract; and in accord with this reason the agent is allowed to sue. *Joseph* v. *Knox*, 3 Camp. 320; *Short* v. *Spackman*, 2 B. & Ad. 962. But the principal may also sue on the contract. *Cothay* v. *Fennell*, 10 B. & C. 671; *Huntington* v. *Knox*, 7 Cush. (Mass.) 371. As there is a contract with but one person, and on true principles of agency that contract is made with the principal, the reasoning of the cases holding the agent on the contract seems unsound. Certainly it is inapplicable to the principal case, where the liability is not contractual. The decision should be placed on the short ground that the defendant, having induced the plaintiff to enter the employment by holding himself out as principal, is estopped to show that he is not the principal.

AGENCY — SCOPE OF AGENT'S AUTHORITY — BONÂ FIDE PURCHASER FROM PURCHASER WITH NOTICE OF AGENT'S FRAUD. — An agent, in violation of his instructions, delivered a deed which had been executed with the name of the grantee blank. The deed was recorded with the name of a party for grantee, who was chargeable with notice of the agent's wrong. This grantee conveyed to a purchaser for value and without notice. The principal joined all parties in a suit to quiet title. *Held*, that he is entitled to a decree provided he makes good the *bonâ fide* purchaser's loss. *Guthrie* v. *Field*, 116 Pac. 217 (Kan.).

In Kansas, parol authority to complete a deed executed with the grantee's name blank is sufficient. *Exchange National Bank* v. *Fleming*, 63 Kan. 139, 65 Pac. 213. This is so even where a third party with the agent's authority writes in the name. *Cf. Commercial Bank* v. *Norton*, 1 Hill (N. Y.) 501. The agent's incidental power to convey does not depend upon the third party's belief in its existence. *Edmunds* v. *Bushell*, L. R. 1 Q. B. 97; *Watteau* v. *Fenwick*, [1893] 1 Q. B. 346. The third party's knowledge of the agent's wrong would make the transaction voidable as to him but would not prevent the passage of title. The *bonâ fide* purchaser's title, therefore, should be unassailable. *Arnett's Committee* v. *Owens*, 23 Ky. L. Rep. 1409, 65 S. W. 151; *Somes* v. *Brewer*, 2 Pick. (Mass.) 183. The court relies upon the doctrine that, of two innocent parties, the loss must fall upon the one whose misplaced confidence enabled the wrongdoer to cause it. As applied by the courts in cases like this, it does not differ from estoppel. *Friswold* v. *Haven*, 25 N. Y. 595; *State* v. *Matthews*, 44 Kan. 596, 25 Pac. 36. From the nature of a deed it is difficult to find a representation to the purchaser from the grantee, upon which to base an estoppel. *Cf. Grant* v. *Norway*, 10 C. B. 665. And if there is an estoppel, the innocent purchaser should obtain a perfect title. *Horn* v. *Cole*, 51 N. H. 287; *Grissler* v. *Powers*, 81 N. Y. 57. *Contra*, *Campbell* v. *Nichols*, 33 N. J. L. 81. In unusual cases, relief upon the terms of the decree in the principal case might be granted. *Cf. New York & New Haven R. Co.* v. *Schuyler*, 34 N. Y. 30. If the third party completed the deed, without authority from the agent, title would not pass. But the court does not accept this theory of the facts.

BANKRUPTCY — PROPERTY PASSING TO TRUSTEE — CORPORATE NAME. — The trustee in bankruptcy of a corporation sold its good will and trade name. The corporation received its discharge. *Held*, that the purchaser from the